

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Benne Singletary,)	
Plaintiff,)	
)	
)	
v.)	
)	Civil Action No. 06-315- JJF
C/O Gosnell, and C/O Waples)	
Defendants.)	

ANSWER TO COMPLAINT

State Defendants Gosnell and Waples, by and through undersigned counsel
hereby answer the complaint as follows:

EXHAUSTION OF ADMINISTRATIVE REMEDIES

1. State Defendants lack information and knowledge sufficient to form a belief as to the allegations contained in paragraphs A, B, and C of Section II of the Complaint and therefore deny same.

PARTIES

2. Admitted that Plaintiff is a prisoner in the custody of the Delaware Department of Correction and currently housed in the Delaware Correctional Center, Smyrna, Delaware.

3. Admitted that Defendants' Gosnell and Waples are employed with the State of Delaware Department of Correction.

STATEMENT OF CLAIM

4. State Defendants deny that they acted with deliberate indifference to Plaintiff's health and safety in violation of the Eighth and Fourteenth Amendments.

STATEMENT OF FACTS

5. It is admitted that on several occasions Plaintiff was involved in physical altercations with other inmates, and did sustain physical injuries as a result of the altercations. State Defendants are without knowledge or information sufficient to form a belief as to the truth of the facts alleged concerning the extent of plaintiff's injuries.

6. Denied that Defendants Gosnell and Waples had prior knowledge of an attack against plaintiff. By way of further answer, Defendants Gosnell and Waples deny that they knew of and fail to protect plaintiff from an attack.

RELIEF

7. It is specifically denied that Plaintiff is entitled to compensatory damages or punitive damages.

8. It is specifically denied that Plaintiff is entitled to any other relief.

AFFIRMATIVE DEFENSES

9. Plaintiff failed to state a claim upon which relief can be granted.

10. Plaintiff failed to exhaust his administrative remedies.

11. Plaintiff's suit for monetary damages against State Defendants as set forth in paragraph V is barred by the Eleventh Amendment to the United States Constitution.

12. Plaintiff failed to show that State Defendants are liable for alleged constitutional deprivations in the absence of any State Defendants' personal involvement.

13. Plaintiff is barred from suit imposing § 1983 liability against State Defendants on the basis of a *respondeat superior* theory.

14. To the extent of actual involvement, State Defendants acted in good faith, as state officers, or as individuals in all actions which relate to the Plaintiff, and therefore, are immune from all claims alleged in Plaintiff's complaint.

15. Plaintiff was not deprived of his constitutional rights or protection by the State Defendants as a result of the wrongful acts of another prisoner.

16. Plaintiff's injuries, if any, resulted from an intervening and/or superseding cause.

17. Plaintiff's alleged injuries, losses or damages, if any, were the direct, sole and proximate result of activities or conduct of persons or entities for which State Defendants had no knowledge of the risk of harm.

18. Plaintiff acted with contributory negligence.

Wherefore, the State Defendants demand that judgment be entered in their favor as to all claims and against the plaintiff as to all claims, and attorney's fees and costs be awarded to defendants.

**STATE OF DELAWARE
DEPARTMENT OF JUSTICE**

/s/ Ophelia M. Waters
Ophelia M. Waters, I. D. #3879
Deputy Attorney General
Carvel State Office Building
820 North French Street, 6th Floor
Wilmington, Delaware 19801
(302) 577-8400
Counsel for State Defendants

Dated: September 20, 2006,

CERTIFICATE OF SERVICE

I hereby certify that on September 20, 2006, I electronically filed *Answer to Complaint* with the Clerk of Court using CM/ECF. I hereby certify that on September 20, 2006, I have mailed by United States Postal Service, the document to the following non-registered participant: Benne Singletary; SBI # 332365; Delaware Correctional Center; 1181 Paddock Road, Smyrna DE 19977.

**STATE OF DELAWARE
DEPARTMENT OF JUSTICE**

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Ophelia M. Waters, I.D. #3879
Deputy Attorney General
820 North French Street, 6th Floor
Wilmington, Delaware 19801
(302)577-8400
ophelia.waters@state.de.us